

DOCKET NO. 3:01-CR-12-FDW

Defendant.

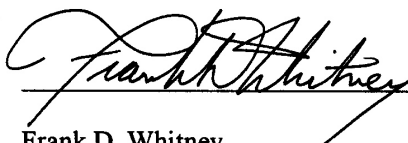
3. Nevertheless, it is settled that under 18 U.S.C. § 3582(c)(2) the Court *may* reduce the term of imprisonment “after considering the factors set forth in section 3553(a) to the extent they are applicable” and if such a reduction is consistent with the applicable policy statements issued by the Sentencing Commission. In the Commentary to U.S.S.G. § 1B1.10, the Sentencing Commission emphasized that the decision to grant a sentence reduction authorized by retroactive amendments is

discretionary and that retroactivity does not entitle a defendant to a reduced term of imprisonment as a matter of right.

4. The full record before the Court reflects a defendant who used and possessed a firearm during and in relation to his drug trafficking crimes, as evidenced by his guilty plea to that separately charged offense. Based on these offense characteristics, the Court finds based upon its consideration of the § 3553(a) factors¹ that a reduction in sentence below 56 months for Count One would not be justified. Therefore, the Court need not decide whether Pillow is applicable to this case, and defendant's motion will be allowed and his sentence reduced to **56 months** as to Count One and **60 months** as to Count Two, to run consecutively.

An appropriate Order shall issue separately.

Signed: September 5, 2008


Frank D. Whitney
United States District Judge



¹The Court notes that it is not required under Fourth Circuit case law to undertake an exhaustive analysis of all of the § 3553(a) factors in this Order. See United States v. Legree, 205 F.3d 724, 728-29 (4th Cir. 2000).